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Action by T. Gilbert Wood against the Norfolk Fire Insurance Corporation. Judgment for plaintiff, and defendant brings error. Affirmed.

Peatross & Savage, for plaintiff in error.

Caskie & Caskie, for defendant in error.

HARRIS et al. v. WYATT et al.

March 14, 1912.

[74 S. E. 189.]

1. Wills (§ 311*)—Actions to Establish or Impeach—Jurisdiction.—In an action under Code 1904, § 2544, to impeach or establish a will, the court has jurisdiction only to ascertain, as prescribed in that section, whether the paper in question is the last will and testament of the decedent.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 738; Dec. Dig. § 311.* 13 Va.-W. Va. Enc. Dig. 773.]

2. Equity (§ 22*)—Administration of Estates.—A court of equity has jurisdiction of an action to construe a will, determine the rights of the beneficiaries thereunder, ascertain the indebtedness of the estate, settle the accounts of the executor, and administer the estate.

[Ed. Note.—For other cases, see Equity, Cent. Dig. §§ 51-62; Dec. Dig. § 22.* 13 Va.-W. Va. Enc. Dig. 857; 5 Va.-W. Va. Enc. Dig. 638.]

3. Wills (§ 344*)—Probate—Construction of Order.—An order of the probate court stated that, a will "being proved by the oaths of J., one of the subscribing witnesses thereto, except that the erasures of lines 2, 3, 4, 5, inclusive, in clause 6, on page 1, were made since the signing and acknowledging of said paper writing by the testator, * * * it is ordered that the said will be recorded." Held, that this order did not exclude the lines mentioned from probate.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 800, 801; Dec. Dig. § 344.* 13 Va.-W. Va. Enc. Dig. 778.]

4. Wills (§ 206*)—Revocation—Effect of Erasures.—In the absence of evidence that erasures in a will were made by the testator, or by his direction, or that the will was found after his death under such circumstances that the fact of revocation to the extent of the erasures might be presumed, the whole will should be admitted to probate.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 513, 514; Dec. Dig. § 206.* 13 Va.-W. Va. Enc. Dig. 753.]

5. Wills (§ 353*)—Probate—Recording—Effect of Irregularities.—The failure of the clerk of the probate court to transcribe on the

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records a part of the will as admitted to probate does not affect the rights of the parties.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 809; Dec. Dig. § 353.* 13 Va.-W. Va. Enc. Dig. 766.]

Appeal from Circuit Court, Loudoun County.

Action for the construction of the will of Charles Harris, deceased, and the administration of his estate. From decrees granting the relief asked for, Newton Harris and others appeal. Affirmed.

J. W. Foster and Cecil Conner, for appellants.

Chas. P. Jannetty and Moore, Barbour & Keith, for appellees.

MILLER & CO. v. LYONS.

March 14, 1912.

[74 S. E. 194.]

1. Brokers (§ 38*)—Stock Transactions—Conversion—Inconsistent Defenses.—In an action by plaintiff against his stockbrokers for alleged conversion of certain stocks by selling the same for alleged want of sufficient margins, propositions that the brokers had no right to sell the stocks without notice to plaintiff as they did, because of a prior course of dealing, and also because of an express contract to wait for called margins until the succeeding day, were not inconsistent.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. §§ 31-36; Dec. Dig. § 38.* 1 Va.-W. Va. Enc. Dig. 136.]

2. Brokers (§ 24*)—Margin Transactions—Broker's Right to Close Account—Waiver.—A provision in a broker's contract with its customers, reserving the right to close transactions without further notice whenever margins were running out, could be waived by the broker, either in express terms or by a course of dealing giving the customer the right to believe that his transactions would not be closed under such authority without notice.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. § 19; Dec. Dig. § 24.* 5 Va.-W. Va. Enc. Dig. 231, 238.]

3. Brokers (§ 24*)—Margin Transactions—Right to Close—Estoppel—Course of Dealing.—Where, by a course of dealing between a broker and customer for more than four years, the broker had not exercised or claimed an alleged right to close transactions without notice to the customer and an opportunity to deposit further margins, the broker might be estopped thereby from closing the customer's transactions contrary to such customary course of dealing.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. § 19; Dec. Dig. § 24.* 5 Va.-W. Va. Enc. Dig. 231, 238.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.